

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 73

This is in response to an appeal filed by SHOPO regarding the denial by the Chief of Police of your non-City employment as a shuttle bus driver for Company X.

We understand the salient facts to be as follows:

1. You are in the uniform patrol division under field operations, which is under the supervision of an Assistant Chief of Police.
2. As a member of the uniform patrol division, you are required to enforce all laws, ordinances and rules and regulations of the State and the City.
3. Company X is a private corporation which shuttles crew members of airlines to and from the airport and Waikiki.
4. Company X is subject to all the laws, ordinances, and rules and regulations of the State and the City.

Based on the foregoing facts, the primary issue is whether the non-City employment requested by you is incompatible with your duty as a member of the uniform patrol division. We are of the opinion that it is.

RCH Section 10-102.3 provides that no officer or employee shall:

Engage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of his official duties or which may tend to impair his independence of judgment in the performance of his official duties.

Another provision which may be applicable in the instant case is RCH Section 10-104, which reads as follows:

No elected or appointed officer or employee shall use his official position to secure or grant special consideration, treatment, advantage, privilege or exemption to himself or any person beyond that which is available to every other person.

As a commissioned police officer, you are required, among other things, to enforce the traffic code and ordinances, the Public Utilities Commission (PUC) operational and equipment

requirements dealing with public carriers, and to enforce all other laws and ordinances in a consistent and impartial manner. A police officer is considered on duty 24 hours a day and is required to take action whenever or wherever circumstances mandate.

We find it difficult to correlate consistency and impartiality with the police officers' responsibility to enforce laws and ordinances if that officer is employed by a public carrier who is in competition with other public carriers, and particularly if that officer is also regulated by the PUC as a condition of employment.

We do not question your integrity nor do we mean to infer that the offer of employment with Company X was meant to influence you against the proper discharge of your duty. However, we do firmly believe that it is reasonable to presume that this outside employment could tend to influence you or could tend to impair your independence of judgment in the performance of your official duties. The effect of any impropriety could adversely affect the City and County as your principal employer and the Honolulu Police Department as the chief law enforcement agency for the City.

In view of the foregoing, the Commission hereby denies your appeal because it is imperative that the Police Department continue to retain its image as an organization which enforces the laws, ordinances, and rules and regulations of the State and the City fairly and equally upon any member of the public.

Dated: Honolulu, Hawaii, December 21, 1977.

ETHICS COMMISSION
Nathaniel Felzer, Chairman

**Section 7-15.1 defines "financial interest" as "an interest held by an individual, his spouse, or minor children which is: (1) an ownership interest in a business; (2) a creditor interest in an insolvent business; (3) an employment, or prospective employment for which negotiations have begun; or (4) an ownership interest in real or personal property. " The word "indirect" in RCH Section 10-102.3 apparently means of interest which is not directly owned by the officer or employee but by his spouse, child or other relative.*